

**DISTRICT COURT OF THE VIRGIN ISLANDS  
DIVISION OF ST. CROIX**

<b>CARLOS GREER,</b>	)	
	)	
<b>Plaintiff,</b>	)	<b>Civil Action No. 2017-0041</b>
	)	
<b>v.</b>	)	
	)	
<b>UNITED STATES OF AMERICA,</b>	)	
	)	
<b>Defendant.</b>	)	
	)	

**Attorneys:**  
**Lee J. Rohn, Esq.,**  
**Mary Faith Carpenter, Esq.,**  
St. Croix, U.S.V.I.  
*For Plaintiff*

**Angela Tyson-Floyd, Esq.,**  
St. Croix, U.S.V.I.  
*For Defendant*

**ORDER**

THIS MATTER is before the Court on United States Postal Service’s (“USPS”) “Motion to Dismiss First Amended Complaint” (Dkt. No. 14) and its memorandum in support thereof (Dkt. No. 15). Plaintiff responded, in effect, by filing a “Motion for Leave to File Second Amended Complaint” (Dkt. No. 16), which was granted by the Court (Dkt. No. 17).

Because the Second Amended Complaint, by operation of law, has become the operative pleading in this case, the Court will deny as moot Defendant’s motion to dismiss. *See W. Run Student Hous. Assocs., LLC v. Huntington Nat’l Bank*, 712 F.3d 165, 171 (3d Cir. 2013) (stating that “judicial admissions” alleged in prior complaint were no longer before court, because amended complaint, which became operative complaint, withdrew such admissions “by amendment”); *see also United States of Am. for the USE of Heavy Materials, LLC v. Tip Top*

*Constr. Corp*, 2016 WL 2992116, at \*8 n.16 (D.V.I. May 20, 2016) (holding that “[b]ecause the First Amended Complaint is the operative pleading in this case, the Court will deny as moot Defendant’s Motion to Dismiss Plaintiff’s Original Complaint”); *Josse v. United States of Am.*, 2013 WL 152170, at \*1 n.1 (D.V.I. Jan. 11, 2013) (holding that “[i]n view of Plaintiff’s filing of the Second Amended Complaint, the Court will deny as moot VIPA’s Motion to Dismiss the First Amended Complaint.”).

In view of the foregoing, it is hereby **ORDERED** that the United States Postal Service’s “Motion to Dismiss First Amended Complaint” (Dkt. No. 14) is **DENIED AS MOOT**.

Date: July 14, 2020

\_\_\_\_\_/s/\_\_\_\_\_  
WILMA A. LEWIS  
Chief Judge